

AMENDED IN ASSEMBLY JUNE 13, 2012

AMENDED IN SENATE APRIL 9, 2012

SENATE BILL

No. 1092

Introduced by Senator De León

February 15, 2012

An act to amend Section 34510.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1092, as amended, De León. Vehicles: brokers of construction trucking services: surety bonds.

(1) Existing law requires the Department of Motor Vehicles to regulate the safe operation of specified vehicles, including commercial motor vehicles and trailer and semitrailer commercial vehicle combinations owned and operated by motor carriers. Existing law also requires every motor carrier of property to comply with specified safety, permit, and liability insurance regulations and to pay the fees required by these provisions.

Existing law prohibits a broker of construction trucking services, as defined, from furnishing construction transportation services to a construction project unless it has secured a surety bond of not less than \$15,000 executed by an admitted surety insurer.

This bill would require a broker of construction trucking services to annually provide written evidence of the broker's valid surety bond to a 3rd-party nonprofit organization that is related to the industry and regularly maintains a published database of bonded brokers or to post a current copy of the surety bond on the broker's Internet Web site. *The bill would also prohibit a 3rd-party nonprofit organization from*

charging a broker for posting evidence of a valid surety bond or from limiting the posting of the bond only to the organization's members.

The bill also would prohibit a broker of construction trucking services from hiring, or otherwise engaging the services of, a motor carrier of property to furnish construction transportation services unless the broker provides, prior to the commencement of work each calendar year, written evidence of the broker's valid surety bond to any person that hires, or otherwise engages the services of, the broker to furnish construction transportation services and also to the hired motor carrier of property.

Because a violation of these provisions would be a misdemeanor, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34510.5 of the Vehicle Code is amended
2 to read:

3 34510.5. (a) (1) A broker of construction trucking services,
4 as defined in Section 3322 of the Civil Code, shall not furnish
5 construction transportation services to any construction project
6 unless it has secured a surety bond of not less than fifteen thousand
7 dollars (\$15,000) executed by an admitted surety insurer. The
8 surety bond shall ensure the payment of the claims of a contracted
9 motor carrier of property in dump truck equipment if the broker
10 fails to pay the contracted motor carrier within the time period
11 specified in paragraph (1) of subdivision (a) of Section 3322 of
12 the Civil Code.

13 (2) (A) A broker of construction trucking services annually
14 shall provide written evidence of the broker's valid surety bond
15 to a third-party nonprofit organization that is related to the industry
16 and regularly maintains a published database of bonded brokers
17 or post a current copy of the surety bond on the broker's Internet
18 Web site. ~~When~~

(B) When a copy of the a surety bond is provided to a third-party nonprofit organization, the broker shall notify the third-party nonprofit organization if at any time the surety bond is cancelled or expired. ~~A third-party nonprofit organization shall not be liable for any damages caused by the publication of any provided information that is erroneous or outdated.~~ When a copy of the surety bond is posted on the broker's Internet Web site, the broker shall remove the surety bond from his or her Web site if at any time the surety bond is cancelled or expired.

(C) *A third-party nonprofit organization shall not charge a broker for posting evidence of a valid surety bond or limit the posting of the bond only to the organization's members.*

(D) *A third-party nonprofit organization shall not be liable for any damages caused by the publication of any information provided pursuant to this paragraph that is erroneous or outdated.*

(b) A broker of construction trucking services shall not hire, or otherwise engage the services of, a motor carrier of property to furnish construction transportation services unless the broker provides, prior to the commencement of work each calendar year, written evidence of the broker's valid surety bond to any person that hires, or otherwise engages the services of, the broker to furnish construction transportation services and also to the hired motor carrier of property.

(c) A broker of construction trucking services who furnishes construction transportation services in violation of this section is guilty of a misdemeanor and subject to a fine of up to five thousand dollars (\$5,000).

(d) In any civil action brought against a broker of construction trucking services by a motor carrier of property in dump truck equipment with whom the broker contracted during any period of time in which the broker did not have a surety bond in violation of this section, the failure to have the bond shall create a rebuttable presumption that the broker failed to pay to the motor carrier the amount due and owing.

(e) For purposes of this section, "a broker of construction trucking services" does not include a facility that meets all the following requirements:

- (1) Arranges for transportation services of its product.
- (2) Primarily handles raw materials to produce a new product.

1 (3) Is a rock product operation (such as an “aggregate”
2 operation), a hot mixing asphalt plant, or a concrete, concrete
3 product, or Portland cement product manufacturing facility.

4 (4) Does not accept a fee for the arrangement.

5 (f) For the purposes of this section, “written evidence of the
6 broker’s valid surety bond” includes a copy of the surety bond, a
7 certificate of insurance, a continuation certificate, or other similar
8 documentation originally issued from the surety that includes the
9 surety’s and broker’s name, the bond number, and the effective
10 and expiration dates of the bond.

11 SEC. 2. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.